

**THE CITY OF GARDEN PLAIN, KANSAS**

**ORDINANCE NO. 693**

**AN ORDINANCE OF THE CITY OF GARDEN PLAIN, KANSAS,  
GOVERNING DANGEROUS AND UNFIT BUILDINGS,  
DEFINING SUCH TERM, REQUIRING POSTING OF NOTICE  
TO REMOVE OR REPAIR BY OWNER AND ABATEMENT ON  
FAILURE OF OWNER TO REPAIR OR REMOVE.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDEN PLAIN,  
KANSAS:**

**SECTION 1.** There is hereby established in the City of Garden Plain, Kansas, the following regulations governing "Unsafe Buildings" and establishing the position of Building Inspector.:

**1. Unsafe Buildings defined:** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, or abandonment, as specified in this code or any other effective ordinance, are, for the purpose of this section unsafe buildings. All such unsafe buildings are hereby declared to be a public nuisance and shall be abated as hereinafter provided.

**2.** Whenever the Building Inspector shall file with the Governing Body a statement in writing, that any structure, describing the same and where located, is unsafe or dangerous, the Governing Body, by resolution, shall fix a time and place at which the owner, the owner's agent, any lienholders of record and any occupant of such structure may appear and show cause why such structure should not be condemned and ordered repaired or demolished in the case of unsafe or dangerous structures or rehabilitated in the case of abandoned property.

Such resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing. A copy of the resolution shall be mailed by certified mail within three days after its first publication to each such owner, agent, lienholder and occupant, at the last known address and shall be marked "deliver to addressee only."

**3. Posting on Notice:** Upon filing of such statement in writing with the Governing Body, the Building Inspector shall place a notice on the particular building or structures found by him to be unsafe or dangerous reading as follows:

"This building has been found to be unsafe or dangerous by the

Building Inspector of the City of Garden Plain, Kansas. This notice is to remain on this building until it is repaired or demolished in accordance with the notice which has been given the owner, his agent, any lienholder of record, and any occupant of this building.”

**4. Defects deemed unsafe:** All buildings or structures or portions thereof which have any or all of the following defects shall be deemed dangerous buildings:

- (a) Those structurally unsafe and liable to fall or collapse or those having vertical structural members or supports that lean, list or buckle to an extent that safety is questionable.
- (b) Those which show thirty-three percent (33%) or more of damage or deterioration of the supporting members or fifty percent (50%) or more of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads upon the floors or roof or in which the same are overloaded or which are insufficient to be reasonably safe for the purpose used.
- (d) Those which have been damaged by fire, wind, water or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupant or the people of the City.
- (e) Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the necessities to decent living, that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- (f) Those having light, air, and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
- (g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, fire escapes, elevators or other means of communications.
- (h) Those having parts which are so attached that they may fall and injure other property or the public.
- (i) Those open to unauthorized persons or those permitted to be attractive to loiterers, vagrants, or children.
- (j) Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazard to the surrounding property or a menace to the public safety of the general welfare.

All dangerous building within the terms of the foregoing provisions are hereby declared to be public nuisances and shall be repaired or demolished as provided herein.

**5. Resolution to repair or remove:** On the date fixed for hearing or any adjournment

thereof, the governing body shall hear all evidence submitted by the owner, the owner's agent, lienholders of record and occupants having an interest in such structure as well as evidence submitted by the enforcing officer filing the statement and shall make findings by resolution. If the governing body of the city finds that such structure is abandoned property, the governing body may authorize the rehabilitation of such property as provided by K.S.A. 12-1756a.

Such resolution shall be published once in the official city paper and a copy mailed to the owners, agents, lienholders of record and occupants in the same manner provided for the notice of hearing. The resolution shall fix a reasonable time within which the repair or removal of such structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated or fails to diligently prosecute the same until the work is completed, the governing body will cause the structure to be repaired or razed and removed in the case of unsafe or dangerous structures or rehabilitated in the case of abandoned property.

**6. Sealing-Sanitary Sewer and Draining Ground:** The owner of any building or other structure to be demolished or removed from its location shall, in a workmanlike manner, seal the sanitary sewer line in a manner not to adversely affect the operation of City sewer system. In addition, the owner or licensed contractor shall fill any basement or excavation located upon the premises bringing the ground up to the level of the ground in the adjacent lots and will take any other action necessary to leave such premises in safe condition.

**7. Failure of owner to remove:** If the owner of any structure has failed to commence the repair or removal of such structure within the time stated in the resolution or has failed to diligently prosecute the same thereafter, the City may proceed to raze and remove such structure, make the premises safe and secure, or let the same to contract. The City shall keep an account of the cost of such work and may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the cost of removing such structure and making the premises safe and secure. All moneys in excess of that necessary to pay such costs and the cost of publications of notice and any postage for mailing of notice, after the payment of all costs, shall be paid to the owner of the premises upon which the structure was located.

The City shall give notice to the owner of such structure by restricted mail of the total cost incurred by the City in removing such structure and making the premises safe and secure and the cost of providing notice. Such notice also shall state that payment of such cost is due and payable within 30 days following receipt of such notice. If the cost is not paid within the thirty-day period and if there is no salvageable material or if moneys received from the sale of salvage or from the proceeds of any insurance policy in which the City has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to pay the cost of such work, the balance shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as a special assessment against the lot or parcel of land on which the structure was located and the City Clerk at the time of certifying other City Taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the County against such lot or parcel of land. The City may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and any applicable

interest has been paid in full. Whenever any structure is removed from any premises under the provisions of this act, the City Clerk shall certify to the County Appraiser that such structure, describing the same, has been removed.

If there is no salvageable material, or if the moneys received from the sale of salvage or from the proceeds of any insurance policy in which the City has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to pay the costs of the work and the cost of providing notice, such costs or any portion thereof in excess of that received from the sale of salvage or any insurance proceeds may be financed, until the costs are paid, out of the general fund or by the issuance of no-fund warrants. Whenever no-fund warrants are issued under the authority of this act the governing body of the City shall make a tax levy at the first tax levying period for the purpose of paying such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law and shall not be subject to the aggregate tax levy prescribed in article 19 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by that section and may be issued without the approval of the state board of tax appeals. All moneys received from special assessments levied under the provisions of this section or from an action under K.S.A. 12-1,115, and amendments thereto, when and if paid, shall be placed in the general fund of the City.

**8. Actions without notice:** When in the opinion of the enforcing officer, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, such officer may erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay and such action may, under such circumstances, be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any such action shall be assessed against the property and paid in the manner provided by K.S.A. 12-1755.

**SECTION 2.** This ordinance shall be effective from and after its passage, approval and publication in the official City newspaper.

**PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF GARDEN PLAIN, KANSAS, THIS 6 DAY OF SEPTEMBER 2017.**

  
Larry Lampe, Mayor

ATTEST:

  
Kimberly C. McCormick, City Clerk